

#12

PTO/98/81 (09-03)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

First Named Inventor:

Art Unit: 1632

Application Number: 9/800,870

Examiner: Valarie Berloglio

Filed: 3-7-01

Title: A Nontraumatic Model of Neurogenic pain

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

FAX RECEIVED

OCT 09 2003

PETITIONS OFFICE

NOTE: If information or assistance is needed in completing this form, please contact  
Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.**

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee—required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

**1. Petition fee**

- ☐ Small entity – fee \$ \_\_\_\_\_ (37 CFR 1.17(l)). Applicant claims small entity status.  
See 37 CFR 1.27.
- ☐ Other than small entity – fee \$ \_\_\_\_\_ (37 CFR 1.17(l)).

**2. Reply and/or fee**

- (A) The reply and/or fee to the above-noted Office action in the form of \_\_\_\_\_ (identify the type of reply):

- ☒ has been filed previously on 7-1-03 (6-30-03 emailed) faxed to Ms. Berloglio
- ☐ is enclosed herewith.

- (B) The issue fee of \$ 660 (now \$665.00)

- ☒ has been filed previously on 8-18-03
- ☒ is enclosed herewith. \$5.00

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P. O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

(2)

**N euroDigm Company**

5521 Bellaire Drive #200  
Fort Worth, Texas 76109  
Tel 817-738-9990  
Fax 817-738-9467

**FAX****New Avenues in Nervous System Research**

<b>To:</b>	<b>From:</b>
Name: Valarie Bertoglio	Mary R. Hannaman Romans MD
Company: USPTO	NeuroDigm Co.
Tel: 703-305-5469	Date: 8-18-03 Original faxed 8-14-03 to 703-746-9333
Fax: 703-872-9308	E-mail: <a href="mailto:hannaman@neurodigm.com">hannaman@neurodigm.com</a> <a href="http://www.neurodigm.com">www.neurodigm.com</a>

**Urgent      Call when received      Review then call      Review & return      To review**

**Total number of pages: 5 five (8-14-03 message sent with credit card info)**

**Regarding: Message below originally faxed on 8-14-03, in response to call from Ms. Bertoglio on 8-18-03 to fax the response to new central fax number**

**"Regarding: Patent application 9/800,870 UNINTENTIONAL Abandonment**

**Valarie this is in response to your mailing of 7-16-03:**

**Reply to Abandonment: 37 CFR 1.137(b)**

**FAX RECEIVED****OCT 09 2003****PETITIONS OFFICE**

1) My needed REPLY to the December 2, 2002 Action was faxed in on 7-1-03

2) Attached is the fee for \$660 as a small entity : This includes the extension fees \$110 sent in near 1-30-03 and \$220 sent in on 7-1-03; the remainder of the fee \$330 is attached.

3) STATEMENT:

The abandonment of my patent application was definitely unintentional and in error, I calculated the six months time for the action reply from January 2, 2003 (when it was due) instead of December 2, 2002 (when it was sent).

During this time I had dismissed my patent attorney and I was unfamiliar with the needed protocol.

Thank You for your consideration,

  
Mary Hannaman Romans MD "

**NeuroDigm Company**

5521 Bellair Drive #200  
Fort Worth, Texas 76109  
Tel 817-738-9990  
Fax 817-738-9467

**FAX****New Avenues in Nervous System Research**

To:	From:
Name: Nancy Johnson Attorney	Mary Hannaman Romans MD
Company: Office of Petitions	NeuroDigm Co.
Tel: 703-305-9282	Date: 10-09-03
Fax: 703-308-6916	E-mail: <a href="mailto:hannaman@neurodigm.com">hannaman@neurodigm.com</a> <a href="http://www.neurodigm.com">www.neurodigm.com</a>

Urgent      Call when received      Review then call      Review & return      To review

Total number of pages: *11 pages*

Regarding: Refiling of REVIVAL for 9/800,870 - UNINTENTIONAL  
originally filed by fax on 8-18-03 under 37CFR 1.137(b)  
originally sent by e-mail on 8-14-03 to Ms Bertoglio

*W/ PTO/SB/61 (9-03)*

Dear Ms Johnson:

Here is an abbreviated Dateline and STATEMENT:

12-2-02: Detailed Action sent, inventor to respond by 1-2-03  
12-16-03: patent attorney released  
12-27-02: \$110 2 month extension filed

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**\*\*6 months from Detailed Action REPLY answer date of 1-2-03 on**

06-30-03: Reply filed by e-mail with \$220 for 4 month extension;  
Ms Bertoglio said to fax it in

07-01-03: Reply faxed in

07-3-003: on calling Ms Bertoglio, she said it was over the 6 month limit from the date the detailed action was sent, it should have been sent in by 6-2-03. Therefore it was Abandoned and would have to be revived. I informed her this delay was UNINTENTIONAL and the result of miscounting the 6 months from the wrong date.

Ms Bertoglio said not to do anything until I received an abandonment.

07-16-03: received abandonment paper signed by Peter Papas.

08-14-03: faxed into Ms Bertoglio Revival with \$330 (the remainder of \$660); she received it but said it needed to be faxed into the central fax Number. No Revival form was found on USPTO website on review of available forms.

08-18-03: Revival Faxed into the central Fax No. 703-872-9306

Many e-mails, calls to Ms Bertoglio left the status unclear.

09-25-03: Called Peter Paras, who signed the abandonment. He said everything was behind. He mentioned the Office of Petitions, which I had not heard mentioned before. He did not mention a necessary form.

I went to website to look up Office of Petitions and a possible form found PTO/SB/61 (09-03).

09-29-03: Ms Bertoglio called and asked how it was going, I had n t called her recently. I said I think I had it figured out since I had found a form and where t send it. She apologized saying she had never handled an abandonment and did not know what t do.

10-07,08-03: called Office of Petiti ns and on 10-09-03 sp ke with Nancy J hns n, who clarified questions c ncerning PTO/SB/61 (9-03) and informed me th fee had been raised to \$665.

10-09-03: faxed in PTO/SB/61 (9-03) with fee documentati n and \$5 credit card form t Nancy Johns n.

Thank You for your timely help,

*Mary Hannaman Romans*

①

08/18/03 14:09:30

USPTO-&gt;

8177389467 RightFAX

Page 001

TO:Auto-reply fax to 8177389467 COMPANY:

## Auto-Reply Facsimile Transmission



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE

TO:

Fax Sender at 8177389467

Fax Information

Date Received:

Total Pages:

8/18/03 2:01:59 PM [Eastern Daylight Time]

5 (including cover page)

**ADVISORY:** This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received  
Cover  
Page

=====&gt;

FROM :	FAX NO. :8177389467	Aug. 18 2003 01:04PM PL
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<b>NeuroDigm Company</b> 8521 Ballito Drive #200 Fort Worth, Texas 76116 Tel 817-738-9467 Fax 817-738-9467		<b>FAX</b> New Advances in Nervous System Research
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To:	From:
Name: Valerio Bergele	Mary R. Hannaman Esq. MD
Company: USPTO	NeuroDigm Co.
Tel: 708-368-8405	Date: 8-18-03
Fax: 708-372-9309	Original faxed 8-14-03 to 703-746-8333
	E-mail: hannah@neurodigm.com
	www.neurodigm.com

  

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Total number of pages: 5 five (8-14-03 message sent with credit card info)

Regarding: Message below originally faxed on 8-14-03, in response to call from Mr. Bergele on 8-15-03 to fax the response to how current fax number

\*Regarding: Patent application 9/800,870 UNINTENTIONAL Abandonment

Valerio this is in response to your mailing of 7-16-03:

Reply to Abandonment: 37 CFR 1.137(b)

- 1) My needed RPTF-V to the December 2, 2002 Action was faxed in on 7-1-03
- 2) Attached is the fee for \$600 as a small entity: This includes the extension fee \$110 paid in year 1-30-03 and \$220 sent in on 7-1-03; the remainder of the fee \$330 is refunded.
- 3) STATEMENT:

The abandonment of my patent application was definitely unintentional and in error. I calculated the six months time for the action reply from January 2, 2003 (when it was due) instead of December 2, 2002 (when it was sent)

During this time I had dismissed my patent attorney and I was unfamiliar with the needed process.

Thank You for your consideration

Mary Hannaman Esq. MD

www.neurodigm.com

Received from 8177389467 on 8/18/03 2:01:59 PM [Eastern Daylight Time]

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**NeuroDigm Company**

5521 Bellaire Drive S. #200  
Fort Worth, Texas 76109  
Tel 817-738-9990  
Fax 817-738-9467

**FAX****New Avenues in Nervous System Research**

To:	From:
Name: Valarie Bertoglio	Mary Hannaman Romans MD
Company: USPTO	NeuroDigm Co.
Tel: 703-305-5469	Date: 8-14-03
Fax: 703-746-9333	E-mail: <a href="mailto:hannaman@neurodigm.com">hannaman@neurodigm.com</a> <a href="http://www.neurodigm.com">www.neurodigm.com</a>

Urgent      Call when received      Review then call      Review & return      To review

Total number of pages: 4

Regarding: Patent application 9/800,870 UNINTENTIONAL Abandonment

Valarie this is in response to your mailing of 7-16-03:

Reply to Abandonment: 37 CFR 1.137(b)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(e)****3. Terminal disclaimer with disclaimer fee**

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

**4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

10-9-03  
Date

Mary H. Romans  
Signature

817-738-9990  
Telephone Number

Mary H. Romans  
Typed or printed name

Registration Number, if applicable

Address

Address

Enclosure

☒

Fee Payment & prior documentation

☐

Reply

☐

Terminal Disclaimer Form

☐

Additional sheets containing statements establishing unavoidable delay

☒

statement of unintentional delay

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☐

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-8918.

10-9-03  
Date

Mary H. Romans  
Signature

Mary H. Romans  
Typed or printed name of person signing certificate

[Page 2 of 3]

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(Please attach additional sheets if additional space is needed.)

[Page 3 of 3]

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